

1 UNITED STATES DISTRICT COURT

2 EASTERN DISTRICT OF NEW YORK

3 UNITED STATES OF AMERICA, Docket No. 1:23-CR-00082-EK

4 Plaintiff,

5 v.

Brooklyn, New York
Wednesday, March 13, 2024
2:39 p.m.

6 CARLOS WATSON ET AL,

7 Defendants.

8
9 TRANSCRIPT OF STATUS CONFERENCE
BEFORE THE HONORABLE ERIC R. KOMITEE
10 UNITED STATES DISTRICT JUDGE

11 APPEARANCES:

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P R O C E E D I N G S

THE COURTROOM DEPUTY: This is criminal cause for a status conference, docket number 23-CR-00082, United States of America versus Watson et al.

Parties please state your appearance for the record, starting with the Government.

MR. SIEGEL: Good afternoon, Your Honor. Jonathan Siegel and Dylan Stern for the United States. And if it's all right for Your Honor -- with Your Honor, we also have a paralegal specialist, Jacob Benton (ph.), at Counsel table.

THE COURT: That is indeed all right with me. Good afternoon, everyone.

MR. SIEGEL: Thank you.

MR. SULLIVAN: And Ronald Sullivan here, on behalf of Carlos Watson, who is present. We also have attorney Shannon Frison, who has filed a pro hac vice motion before the Court, entered a notice of appearance, and has signed the protective order.

THE COURT: Outstanding. Welcome to you.

MS. FRISON: Thank you. Good afternoon.

THE COURT: Good afternoon.

MR. MONTGOMERY: Good afternoon, Your Honor.
Kenneth Montgomery.

THE COURT: Good afternoon, Mr. Montgomery, to you, as well.

1 All right. Why don't we take up the substitution
2 of Counsel in the first instance? We could've done this over
3 the -- by the papers. I just wanted to confirm before we
4 make the substitution official that -- Ms. Price, we said?

5 MS. FRISON: Frison with an F.

6 THE COURT: Frison. Thank you. Is able to meet
7 the existing trial schedule and also that you have the
8 capability to deal with the document review issues that're
9 underway.

10 MS. FRISON: Yes. Thank you. I will be. I am
11 apprised of the schedule, the trial schedule, starting May
12 29th, jury selection May 20th, and I did sign a protective
13 order and will -- I'll be ready. We'll be ready.

14 THE COURT: All right. The Government, I take it,
15 has no view on this one or the other?

16 MR. SIEGEL: As long as the trials can proceed, we
17 have no position.

18 THE COURT: Okay. The motion for substitution of
19 Counsel is granted. Mr. Montgomery is relieved. The pro hac
20 vice motion, I don't think I rule on those myself. I don't
21 believe I ever have. Is that directed to the clerk's office?
22 What is the process there? If anyone knows.

23 MR. SULLIVAN: My sense is it's a motion. So based
24 on what you say now, I don't know if mine has ever been
25 approved quite frankly.

1 THE COURT: Yeah. I would approve it myself except
2 that I imagine somebody has to check whether a lawyer is duly
3 admitted in some state in good standing and the like. And
4 whoever's going to do that, it's not me.

5 So everybody who's got a pro hac vice motion
6 pending should make sure that it's addressed one way or the
7 other.

8 MR. SULLIVAN: I'll call the clerk's office. In
9 many places I practice, the judge does issue an order after
10 the clerk, I think, affirms that all the requisites are in
11 place. But I can't be sure in this jurisdiction.

12 THE COURT: You know anything about this?

13 All right. Yeah. It sounds like that will happen
14 in the ordinary course once the clerk's office confirms that
15 the screening has come back showing no issues. So that's
16 that.

17 We have the Government's requests still pending
18 from the last status conference either to amend the
19 protective order, and/or revoke bail, and maybe also to
20 initiate contempt proceedings in connection with the alleged
21 violation of the protective order.

22 I, following the last conference, asked the
23 Government to submit copies of the actual materials -- the
24 emails that the Government believed to have been disclosed
25 improperly. The Government did that.

1 Here's where I think we are in that respect.
2 Obviously, I will have the ability to take up contempt issues
3 if we are going to take those up after the trial here if the
4 point is to address a past violation. There's no necessary
5 reason we can't do that after trial.

6 Obviously, I understand the Government's impulse to
7 want to make sure that there are no further violations if
8 indeed one has occurred before that would otherwise happen.

9 The two risks I'm balancing there are on the one
10 hand, the risk that there will be some further violation of a
11 protective order if indeed one has already occurred against
12 the risk that if Mr. Watson were to be either incarcerated or
13 even unable to review documents outside the presence of his
14 attorney, that would have a meaningful and negative impact on
15 his ability to participate in his own defense.

16 And as between those two things, my position for
17 the moment, which could obviously change if the facts change,
18 is that I should leave the status quo in place for now.

19 Obviously, if there were to be any further
20 allegation that materials were disclosed in violation of a
21 protective order or that any other existing order or
22 condition of Mr. Watson's release were violated, we would be
23 having a much more immediate and a significantly different
24 conversation. But that's my impulse at this point.

25 Is there anything the Government thinks I'm missing

1 in what I just said apart from the fact that you may disagree
2 with it?

3 MR. SIEGEL: No, Your Honor. I think it all makes
4 very good sense to us.

5 THE COURT: Okay. Well, we'll say that the motion
6 to the extent it appears on the docket as a motion is held in
7 abeyance pending further proceedings in this case.

8 I know we have motions to dismiss from Mr. Watson.
9 Everybody should expect that this trial will be going forward
10 on schedule. Notwithstanding those motions, I will endeavor
11 to get something out in the first half of April.

12 In response to those motions, I know the Government
13 has filed its motions in limine, and there are more papers to
14 come on that score with all that by way of preliminaries.
15 From the Government's perspective, what is the status update
16 here?

17 MR. SIEGEL: Your Honor, I think you've addressed
18 all the pending motions that we have. Discovery. You know,
19 as we're getting new things we're pushing it out but that the
20 flow of that has slowed down quite a bit.

21 You know, I think it makes sense to set some kind
22 of hearing date or argument date on the motions in limine.
23 There are a number of issues to address that I think it would
24 be in all of our interests and in the interest of the
25 official trial to get that resolved quickly.

1 But other than that, I think the Government is
2 moving very swiftly towards trial as is, I assume, everyone.

3 THE COURT: Okay. Yes. We will set a date for
4 argument on motions in limine today.

5 On the subject of discovery, given that you brought
6 it up, A, you should endeavor seriously to make sure that
7 whatever discovery remains to be produced, it gets produced
8 as quickly as possible so as not to even raise the specter of
9 interference with the trial date.

10 B, and I'm saying this in all of my more complex
11 cases these days, I don't know how many agencies were
12 involved in the investigation of the conduct at issue here.

13 You know, you knew this already, but I'll just
14 reiterate that it is incumbent on the Government to think
15 long and hard about where any material that might be either
16 Rule 16 material, or Brady, or Giglio material might be
17 located.

18 I have another case in which the Government
19 disclosed certain material at sentencing that the Defense has
20 taken the position should have been disclosed under those
21 rubrics before trial.

22 Those kinds of situations are to be avoided at all
23 costs, and I know that it can be very complicated even to
24 think comprehensively about where discovery materials, or
25 Brady, or Giglio materials might be found.

1 But I just want the Government to be sure that
2 that's a topic that is at or near the top of your to-do list
3 as we go forward. In terms of a date for argument on the
4 motion in limine, we get the replies in the first third of
5 April, right?

6 MR. SIEGEL: April 12th, Your Honor.

7 THE COURT: What about oral argument the -- what
8 about oral argument at 11 a.m. on Friday, April 26th?
9 Actually, let's say 10 a.m. that Friday.

10 MR. SIEGEL: That works for the Government.

11 MR. SULLIVAN: Brief indulgence, Your Honor.

12 THE COURT: Yes.

13 MR. SULLIVAN: Yes, Your Honor. It's good for
14 Mr. Watson, and Ms. Shannon informs it's good for Ozy Media,
15 as well.

16 THE COURT: Ms. Who?

17 MR. SULLIVAN: Ms. Frison. What did I say?

18 THE COURT: I think you said Shannon.

19 MR. SULLIVAN: Oh. That's her first name. I'm
20 sorry. Ms. Frison.

21 THE COURT: Not at all. I just want to make sure I
22 have it right.

23 MR. SULLIVAN: Right.

24 THE COURT: Okay. So we'll see everybody at 10:00
25 on the 26th of April. What else from the Defense

1 perspective, if anything, should we be taking up today?

2 MR. SULLIVAN: We have nothing, Your Honor. I'll
3 endeavor to reach out to the Government on outstanding -- any
4 outstanding discovery issues, and hopefully we can resolve
5 that without the Court intervening.

6 THE COURT: Okay. Ms. Frison?

7 MS. FRISON: Nothing at this time.

8 THE COURT: All right.

9 MR. SIEGEL: Your Honor, just like as a logistics
10 question, we're starting to get our witness order and plan
11 travel for our witnesses, some of whom who have to fly in.
12 Does Your Honor know if you're going to be sitting on Fridays
13 and if there are any days that we're not going to be sitting?

14 I think the judicial conference is going to be
15 towards the beginning of this trial. So to the extent we can
16 know that there are days where we won't be sitting, I just
17 want to see if we could figure that out.

18 THE COURT: Yeah. I'm uncertain for a certain
19 committee in respect of this judicial conference. So I do
20 have to be there. When is that? That is going to be the
21 4th, 5th, and 6th, I believe, of June. And I may not be able
22 to sit on Tuesday -- sorry -- on the afternoon of Tuesday the
23 11th and/or Wednesday the 12th.

24 MR. SIEGEL: Is that just the afternoon of the 12th
25 or all day on the 12th?

1 THE COURT: The full day on the 12th. Beyond that,
2 I may not sit the morning of June 26th, assuming we're still
3 going at that point. And I think that's all we have.

4 MR. SIEGEL: And does the Court plan to sit on
5 Fridays?

6 THE COURT: The answer is that I will know as we
7 get closer. It depends on whether -- among other things, it
8 depends on whether trials I have on either side of this trial
9 actually occur or don't.

10 You know, given that I'm out a couple days -- the
11 week -- three days the week of the 2nd, of June 3rd, and one
12 and half days the week of June 10th, my preference is going
13 to be to sit on Fridays to get the jury to hear the case as
14 quickly as possible from start to end. But we're going to
15 have to play that a little bit by ear.

16 MR. SIEGEL: Your Honor, just from the Government's
17 perspective, sitting on Fridays and moving the case along is
18 always our preference. But ultimately whatever works for the
19 Court.

20 THE COURT: Indeed. All right. Is time excluded
21 through jury selection? Do we have a motion to exclude time?
22 I know we have motions pending, so it may be academic at this
23 point. But what's the --

24 MR. SIEGEL: Time's excluded either through the
25 20th or the -- May 20th or May 29th. I forget which it is

1 exactly, but it's certainly excluded through trial.

2 THE COURT: Okay.

3 MR. SULLIVAN: That's correct.

4 THE COURT: All right. Thank you all. With that,
5 we will be adjourned.

6 MR. SULLIVAN: Thank you, Your Honor.

7 MR. SIEGEL: Thank you, Your Honor.

8 (Proceedings adjourned at 2:56 p.m.)

9

10 TRANSCRIBER'S CERTIFICATE

11 I certify that the foregoing is a correct
12 transcript from the electronic sound recording of the
13 proceedings in the above-entitled matter.

14

15 April 1, 2024

16

17 *Sherman Rivers*

18 Sherman Rivers

DATE

19 Legal Transcriber

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